

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**November 9, 2005**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF HICKORY STAR WATER COMPANY,</b>	)	<b>DOCKET NO.</b>
<b>L.L.C. FOR APPROVAL OF WHOLESALE WATER</b>	)	<b>04-00372</b>
<b>RATE PASS-THROUGH MECHANISM</b>	)	

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**ORDER ACCEPTING WITHDRAWAL OF PETITION**

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This matter came before Chairman Ron Jones, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 22, 2005 for consideration of the *Motion for Approval of Withdrawal of Petition* ("Motion for Withdrawal") filed by Hickory Star Water, LLC ("Hickory Star" or the "Company") on July 26, 2005 requesting withdrawal of its *Petition*. The Company filed the *Petition* on October 22, 2004 seeking Authority approval of a wholesale water rate pass-through mechanism (the "Mechanism").

Hickory Star first sought approval of the Mechanism in TRA Docket No. 04-00044.<sup>1</sup> There, the Company sought approval of a rate increase as well as the Mechanism. The Hearing Officer found the amended stipulation<sup>2</sup> between Hickory Star and the Consumer Protection and Advocate Division of the Office of the Attorney General of

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<sup>1</sup> See *In re Petition for Approval of the Minimum Water Rates for the Area Served by the Hickory Star Water Company*, Docket No. 04-00044, *Petition* (February 10, 2004)

<sup>2</sup> *Id.*, *Amended Stipulation and Agreement between Hickory Star Water Company, LLC and the Consumer Advocate & Protection Division of the Office of the Attorney General* (July 28, 2004).

Tennessee to be just and reasonable, thereby approving<sup>3</sup> the requested rate increase, but denied approval of the Mechanism citing insufficient evidence in the record as to how the Mechanism would function. However, in the final order in that docket, which was issued on September 3, 2004, the Hearing Officer invited the Company to propose the Mechanism as a separate filing and listed four criteria, which the prospective proposal should contain, at a minimum.<sup>4</sup>

On October 22, 2004, Hickory Star filed the *Petition* requesting that the Authority approve its proposed Mechanism. According to Hickory Star, the Mechanism is needed due to the potential that the price at which the Company purchases its water supply will increase.<sup>5</sup>

In order to gain more information in this docket regarding the Mechanism, the Authority issued a Data Request to Hickory Star on November 2, 2004. At the Authority Conference held on November 8, 2004, the panel voted unanimously to suspend the Mechanism for ninety (90) days “to allow sufficient time for a thorough investigation and analysis of the proposed mechanism and the impact of the proposed mechanism on the company’s revenue and its customers.”<sup>6</sup> On November 22, 2004, Hickory Star responded to the November 2, 2004 Data Request. After receiving the Company’s Data Response, the

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<sup>3</sup> The Hearing Officer also accepted and approved the proposed depreciation rate of four percent (4%) contained in the approved stipulated agreement

<sup>4</sup> See *In re Petition for Approval of the Minimum Water Rates for the Area Served by the Hickory Star Water Company*, Docket No 04-00044, *Order Granting, In Part, and Denying, In Part Hickory Star’s Petition* (September 3, 2004) Specifically, the Hearing Officer listed the following criteria that a prospective proposal for approval of the Mechanism should meet

- 1 Proof as to the existing wholesale water cost contained in the Company’s base rates,
- 2 A formula to convert wholesale water cost changes into water billing rates;
- 3 A commitment to file with the TRA thirty days in advance of any proposed change in water rates due to wholesale water cost changes, and
- 4 A proposal as to how to treat any over or under collected water costs

<sup>5</sup> Hickory Star purchases its water supply from the City of Maynardville, Tennessee

<sup>6</sup> Transcript of Authority Conference, p 32 (November 8, 2004)

Authority determined that additional information was required. As a result, the Authority issued an additional Data Request on December 22, 2004.

At a regularly scheduled Authority Conference held on January 31, 2005, the panel voted unanimously to re-suspend the Mechanism for an additional sixty (60) days to allow sufficient time for the Company to respond to the outstanding data request and to allow TRA staff sufficient time to analyze the Company's response. Hickory Star filed its response to the December 22, 2004 Data Request on February 2, 2005.<sup>7</sup>

At a regularly scheduled Authority Conference held on April 18, 2005, the panel conducted a public hearing and heard from William Geary, Jr., a witness on the behalf of Hickory Star.<sup>8</sup> There, Mr. Geary answered a number of questions regarding the Mechanism. Specifically, the panel questioned Mr. Geary as to whether the proposal satisfies the criteria set out in the September 3, 2004 order.<sup>9</sup> At the conclusion of Mr. Geary's testimony, Director Jones stated that he would issue data requests to gain a better understanding of how the Company's proposal met the minimum criteria set out in the September 3, 2004 order.

On April 26, 2005, the Authority issued a final Data Request to Hickory Star, and on May 31, 2005, Hickory Star filed a letter with the Authority requesting additional time to answer the Data Request. Then, on July 26, 2005, Hickory Star filed the *Motion for Withdrawal* requesting that the *Petition* be withdrawn.

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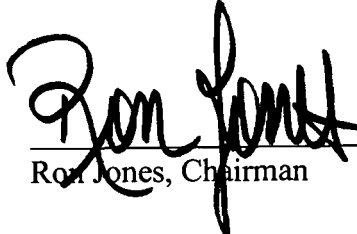
<sup>7</sup> Hickory Star provided a correction to this Data Response on February 9, 2005 after discovering that Exhibit 2B of the February 2, 2005 Data Response contained erroneous information

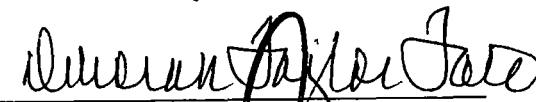
<sup>8</sup> William Geary, Jr is the president of Hickory Star

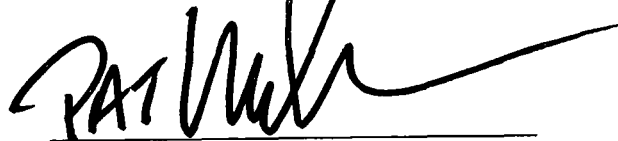
<sup>9</sup> See *In re Petition for Approval of the Minimum Water Rates for the Area Served by the Hickory Star Water Company*, Docket No 04-00044, *Order Granting, In Part, and Denying, In Part Hickory Star's Petition* (September 3, 2004)

During the Authority Conference held on August 22, 2005, upon consideration of the entire record in this matter, the panel voted unanimously to accept Hickory Star's request to withdraw the *Petition*.

**IT IS SO ORDERED.**

  
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Ron Jones, Chairman

  
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Deborah Taylor Tate, Director

  
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Pat Miller, Director